



Mr Wayne Wallis
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Our ref: PP_2017_PORTS_001_00 (16/ 03620)
Your ref: PSC 2016-02354

Att: Mr Matthew Borsato

Dear Mr Wallis,

Planning proposal to amend Port Stephens Local Environmental Plan 2013

I am writing in response to your Council's correspondence dated 16 December 2016 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone 74 South Street, Medowie from R5 Large Lot Residential to R2 Low Density Residential and apply a nine metre maximum building height, and to change the minimum lot size for 66, 68, 70, 72 and 74 South Street, Medowie from 2,000 sq.m to 900 sq.m.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistency with S117 Direction 4.1 Acid Sulfate Soils is of minor significance. No further approval is required in relation to this Direction. Consultation with the NSW Rural Fire Service is required before consistency with S117 Direction 4.4 Planning for Bushfire Protection can be determined.

The Minister delegated plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Attached for your assistance is a simplified guide to the plan making process and reporting requirements to ensure that the LEP Tracking System is kept updated.

Should you have any questions regarding this matter, I have arranged for Ben Holmes from the Hunter office to assist you. Mr Holmes can be contacted on (02) 4904 2709.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Monica Gibson', with a stylized, cursive script.

20/1/2017

Monica Gibson
Director Regions, Hunter and Central Coast
Planning Services

Gateway Determination

Planning Proposal (Department Ref: PP_2017_PORTS_001_00): to rezone 74 South Street, Medowie from R5 Large Lot Residential to R2 Low Density Residential and apply a nine metre maximum building height, and to change the minimum lot size for 66, 68, 70, 72 and 74 South Street, Medowie from 2,000 sq.m to 900 sq.m.

I, the Director Regions, Hunter and Central Coast at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to rezone 74 South Street, Medowie from R5 Large Lot Residential to R2 Low Density Residential and apply a nine metre maximum building height, and to change the minimum lot size for 66, 68, 70, 72 and 74 South Street, Medowie from 2,000 sq.m to 900 sq.m. should proceed subject to the following conditions:

1. Prior to exhibition Council is to amend the Planning Proposal to refer to:
 - (a) section 117 Direction 5.10 Implementation of Regional Plans and include Council's consistency assessment against the requirements of this direction;
 - (b) section 117 Direction 5.1 Implementation of Regional Strategies and include Council's consistency assessment against the Lower Hunter Regional Strategy; and
 - (c) Council's adopted Medowie Planning Strategy and delete references to the draft of that strategy.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to preparing local environmental plans (Department of Planning & Environment 2016)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to preparing local environmental plans (Department of Planning & Environment 2016)*.
3. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the EP&A Act. The NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Council's assessment of consistency with s117 direction 4.4 Planning for Bushfire Protection should then be updated.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 20th day of January 2017

A handwritten signature in black ink, appearing to read 'Monica Gibson', with a stylized, cursive script.

Monica Gibson
Director Regions, Hunter and Central
Coast
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Port Stephens Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2017_PORTS_001_00	Planning proposal to rezone 74 South Street, Medowie from R5 Large Lot Residential to R2 Low Density Residential and apply a nine metre maximum building height, and to change the minimum lot size for 66, 68, 70, 72 and 74 South Street, Medowie from 2,000 sq.m to 900 sq.m.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 20th January 2017



Monica Gibson
Director Regions, Hunter and Central Coast
Planning Services
Department of Planning and Environment

Delegated plan making reporting requirements

(Attachment 5 from “A guide to preparing local environmental plans)

Notes:

- The department will fill in the details of Table 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the Department’s publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department with the RPA’s request to have the LEP notified

Table 1 – To be completed by the Department

Stage	Date/Details
Planning Proposal Number	PP_2017_PORTS_001_00
Date Sent to Department under s56	16/ 12/ 2016
Gateway determination date	20/1/2017

Table 2 – To be completed by the RPA

Stage	Date/Details
Dates draft LEP exhibited	
Date of public hearing (if held)	
Date sent to PCO seeking Opinion	
Date Opinion received	
Date Council Resolved to Adopt LEP	
Date LEP made by GM (or other) under delegation	
Date sent to Department requesting notification (hunter@planning.nsw.gov.au)	
Brief Description of Purpose of planning proposal	

Table 3 – To be completed by the Department

Stage	Date/Details
Notification Date and details	

Additional relevant information:

PLAN MAKING PROCESS POST GATEWAY – FOR DELEGATED MATTERS

1. Post Exhibition Review

- Any unresolved s117 directions must be finalised before progressing with LEP
- If planning proposal is revised, council is to email a copy of the revised proposal to the regional planning team - hunter@planning.nsw.gov.au under Section 58(2) of the Act prior to requesting LEP to be made.
- If changes to planning proposal are substantial then may no longer be authorised by the Gateway determination and a Gateway amendment may be required before LEP is made. Councils are encouraged to contact regional planning team to seek advice before finalising the LEP under delegation.

2. Legal Drafting of the LEP

- Council's request to draft and finalise the plans should be made as soon as possible to ensure timeframes are met. Council should upload the maps and GIS data directly to the department's portal site (<https://data.planningportal.nsw.gov.au/help>).
- Once uploaded Council should email hunter@planning.nsw.gov.au and advise maps are available for checking. Any questions about uploading can be directed to gis@planning.nsw.gov.au.
- Unless otherwise negotiated the department will only undertake a technical review of any maps, to ensure they comply with LEP mapping technical guidelines.
- No maps or mapping/GIS data is to be sent directly to PCO.
- The request for legal drafting should be sent to PCO at parliamentary.counsel@pco.nsw.gov.au including the planning proposal, a copy of the gateway determination and details of any change to the proposal arising from the gateway determination. The name and contact details of the council contact officer should also be supplied.
- A copy of the request to PCO should also be forwarded to the department for administrative purposes only – hunter@planning.nsw.gov.au

3. Making of the draft LEP s59

- Council's delegate resolves to finalise the LEP by signing the instrument (see example below).
- If council's delegate decides not to make plan or defer a matter, council should liaise with regional team for assistance.
- Council must also notify PCO if plan not proceeding

4. Notification of LEP

- Council advises and requests the department to make the plan, email request to hunter@planning.nsw.gov.au and the following documents to be provided for notification
 1. Signed LEP - which includes full name of LEP and PCO file reference
 2. Signed map cover sheet and associated maps,
 3. Name and position of the delegate who signed the LEP and date,
 4. Completed Attachment 5 - delegated plan making reporting template,
 5. Copy of council's assessment (s 59 report) which is usually the council report/minutes
 6. PC opinion
- Request to hunter@planning.nsw.gov.au by Tuesday of the week will enable notification by Friday.

Example of signature front page


Fred Smith General Manager
As delegate for the Minister for Planning 12/12/14